



Town of Southern Shores

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Ordinance 2015-xx-xx

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town of Southern Shores (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted a comprehensive zoning ordinance (the “Town’s Zoning Ordinance”) and has codified the same as Chapter 36 of the Town’s Code of Ordinances (the “Town Code”); and

WHEREAS, the following approved Land Use Plan goals were formulated through input from the public involvement process, and from the Town Staff, the Planning Board and Town Council:

1. To protect, enhance and support land uses that are compatible with surrounding land uses and maintain the existing community character of Southern Shores.
2. Preserve, protect, enhance, maintain and improve the natural environment and water quality within and near Southern Shores.

WHEREAS, within the Land Use Plan, Chapter IV, Plan for the Future:

A. Land Use and Development Goals, B. Land Use and Development Policies,

Policy 2, Action Item 2-b: The Town shall encourage the use of low impact development techniques and sound environmental preservation practices for all new development, remodeling and redevelopment within Southern Shores.

WHEREAS, within the Land Use Plan, Policy and Action Items are included:

Policy 26 Promote open space, tree protection, and natural vegetation diversity.

Action Item 26-b: Encourage lot preparation methods that preserve natural vegetation and minimize clear cutting.

1 Action Item 17-b: Continue enforcement of the Lot Disturbance provisions of the
2 Town's Zoning Ordinance, and

3
4 Policy #28c states: Create landscaping provisions in Town ordinances to create
5 vegetative buffers to assist in improvements of water quality; and
6

7 **WHEREAS**, the regulation of tree preservation, protection, and minimization of
8 tree clear cutting during lot disturbance is reasonable and consistent with the approved
9 Land Use Plan;
10

11 **ARTICLE II. Construction.**

12
13 For purposes of this ordinance amendment, underlined words (underline) shall be
14 considered as additions to existing Town Code language and strikethrough words
15 (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the
16 adopted Town Code which are not repeated herein, but are instead replaced by an ellipses
17 ("...") shall remain as they currently exist within the Town Code.
18

19 **ARTICLE III. Amendment of Zoning Ordinance.**

20
21 NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern
22 Shores, North Carolina, that the Town Code shall be amended as follows:
23

24 **PART I.** That Section 36-177 [Setback Preservation Requirements] be added as follows:
25

26 **Sec. 36-177. Setback Preservation Requirements**

27 (A) Purpose.

28
29
30 (1) The purpose of this section is to preserve and protect trees by minimizing removal of
31 existing vegetation in side yard and rear yard Setback Areas during Lot Disturbance of all
32 lots zoned within RS-1 District of the Town of Southern Shores (TOSS). The specific
33 goals of this section are to:
34

35 (a) Preserve the natural unique character and visual appearance of TOSS

36
37 (b) Protect and enhance the quality of life and the general welfare of the residents
38 and guests of TOSS

39
40 (c) Preserve and maintain unique and fragile coastal habitats including the
41 maritime forests, the vital wetlands, and the protective dunes

42
43 (d) Reduce the impacts of development on the TOSS storm water drainage system

44
45 (e) Protect native species of plants
46

- 1 (f) Preserve the quality of our estuarine waters by preventing soil erosion and
2 runoff and protecting water tables from salt intrusion
- 3
- 4 (g) Maintain property values
- 5
- 6 (h) Prevent wind pattern disturbances and salt spray penetration by maintaining
7 natural vegetative barriers
- 8
- 9 (i) Enhance air quality by reducing dust and other pollutants suspended in the air
- 10
- 11 (j) Reduce noise and light pollution by creating a vegetative buffer and screen
- 12
- 13 (k) Reduce energy consumption through vegetation acting as a windbreak and
14 producing shade
- 15
- 16 (l) Preserve nesting areas for birds and other wildlife, which in turn, assist in the
17 control of insects and pollination of all plant species
- 18

19 (B) Scope.

20

21 (1) This section applies to all lots zoned RS-1 District within the boundaries of TOSS that
22 are:

- 23 (a) Undeveloped Lots with no approved TOSS Building Permit
- 24
- 25 (b) Lots with a TOSS Building Permit for New Construction or Major Renovation
26 (defined as a Building Permit issued in an amount greater than fifty percent of the
27 existing assessed structure value)
- 28

29 (C) Setback Preservation Requirements.

30

31 (1) For Undeveloped Lots with no Lot Disturbance Permit application or proposed
32 Building Permit issued by TOSS:

33

34 (a) A Lot Disturbance and Stormwater Management Permit application must be
35 filed by the property owner for any Lot Disturbance that involves removal of
36 existing trees with a 12 inch or greater diameter at breast height (DBH) measured
37 at 4.5 feet above the ground. The Lot Disturbance and Stormwater Management
38 Permit application will be submitted with a Site Plan of the existing property that
39 indicates side yard and rear yard Setback Areas, existing trees with a 12-inch or
40 greater DBH diameter measured at 4.5 feet above the ground, and the trees with a
41 12-inch or greater DBH measured at 4.5 feet above the ground planned for
42 removal. There shall be no removal of any trees with a 12-inch or greater
43 diameter measured at 4.5 feet above the ground in the side yard and rear yard
44 Setback Areas.

45 (b) There shall be no removal of any vegetation in the side yard and rear yard

46

1 Setback Areas.

2
3 (be) No more than 25% of trees with a 12-inch or greater DBH diameter measured
4 at 4.5 feet above the ground may be removed. No trees may be removed from the
5 Setback Areas, but trees with a 12-inch or greater DBH diameter measured at 4.5
6 feet above the ground trees in the Setback Areas are to be considered part of the
7 denominator in determining the 25% removal calculation.

8
9 (d) The Zoning Administrator Town Planner/Code Enforcement Officer may
10 grant exception to the above if removal is required to prevent imminent danger to
11 people or property. Likewise, exception may be granted in the case of dead,
12 damaged or diseased trees. Trees that are determined by the Zoning Administrator
13 to be dead, damaged, or diseased shall not be included in the 25% removal
14 calculation and shall not require a Lot Disturbance Permit.

15
16 (2) For Lots with a Lot Disturbance Permit application for New Construction or proposed
17 Building Permit for Major Renovation:

18
19 (a) A Lot Disturbance and Stormwater Management Permit shall be required for
20 removal of trees with a 12-inch or greater diameter measured at 4.5 feet above the
21 ground within the outer 7 feet of the side yard setback area and the outer 15 feet
22 of the rear yard setback area.

23
24 (ba) A Site Plan must be submitted by the property owner with the Lot
25 Disturbance and Stormwater Management Permit application. The Site Plan must
26 indicate all existing trees with a 12-inch or greater DBH diameter measured at 4.5
27 feet above the ground within the outer 7 feet of the side yard Setback Areas and
28 the outer 15 feet of the rear yard Setback Area. The Site Plan must indicate any
29 such trees planned for removal.

30
31 (cb) A Vegetative Replacement Plan must be submitted by the property owner for
32 any removal of trees with a 12-inch or greater DBH diameter measured at 4.5 feet
33 above the ground within the outer 7 feet of the side yard Setback Areas and/or the
34 outer 15 feet of the rear Setback Area.

35
36 (de) The Zoning Administrator Town Planner/Code Enforcement Officer may
37 grant exception to the above where removal is unavoidably required for
38 construction of driveways, infrastructure, outbuilding and other authorized
39 improvements.

40
41 (ed) The Zoning Administrator Town Planner/Code Enforcement Officer may
42 grant exception to the above for side yard and/or rear yard Setback Areas that abut
43 a body of water, including ocean, sound, canal or pond.

44
45 (fe) The Zoning Administrator Town Planner/Code Enforcement Officer may
46 grant exception to the above if removal is required to prevent imminent danger to

1 people or property. Likewise, exception may be granted in the case of dead,
2 damaged or diseased trees.

3
4 (3) Vegetative Replacement Plan:

5
6 (a) Where required, a Vegetative Replacement Plan will be submitted with the Lot
7 Disturbance and Stormwater Management application. A Vegetative Replacement
8 Plan is a written list of intended replacement vegetation to include: number, size,
9 location, and species (if known).

10
11 (b) Removal of a tree with a 12-inch or greater DBH diameter measured at 4.5
12 feet above the ground requires a replacement tree (1:1 ratio) with a minimum
13 above ground height of 4 feet at the time of planting or 2 replacement shrubs (2:1)
14 ratio of 2 gallon size or greater. Such replacement vegetation is to be planted
15 within the side and/or back Setback Areas.

16
17 (c) Replacement vegetation must be installed within 9 months of the issuance of
18 the Certificate of Occupancy. Variance from the original Vegetative Replacement
19 Plan is allowed as long as compliance is met with (b) above.

20
21 (d) A Vegetative Replacement Plan shall not be required for the removal of dead,
22 damaged, or diseased trees.

23
24 (D) Violations and Penalties

25
26 (1) Violations of the above will be subjected to existing TOSS code.

27
28 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**
29 **Reasonableness.**

30
31 The Town's adoption of this ordinance amendment is consistent with the Town's adopted
32 comprehensive zoning ordinance, land use plan and any other officially adopted plan that
33 is applicable. For all of the above-stated reasons and any additional reasons supporting
34 the Town's adoption of this ordinance amendment, the Town considers the adoption of
35 this ordinance amendment to be reasonable and in the public interest.

36
37 **ARTICLE V. Severability.**

38
39 All Town ordinances or parts of ordinances in conflict with this ordinance amendment
40 are hereby repealed. Should a court of competent jurisdiction declare this ordinance
41 amendment or any part thereof to be invalid, such decision shall not affect the remaining
42 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the
43 Town of Southern Shores, North Carolina which shall remain in full force and effect.

44
45 **ARTICLE VI. Effective Date.**

1 This ordinance amendment shall be in full force and effect from and after the ____ day of
2 _____, 2015.

3

4

5

6

7 ATTEST:

8

9

10 Deputy Clerk

11

12

13

14 APPROVED AS TO FORM:

15

16

17

18 Town Attorney

Mayor

Date: x/x/2015

Vote: Ayes Naves